

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LESLIE JONES,

Plaintiff,

Case No. 2:04-cv-01933 ALA (P)

vs.

LIEUTENANT E. SANDY, et al.,

Defendants.

ORDER

Plaintiff Leslie Jones (“Jones”) is proceeding *pro se* and *in forma pauperis* in the civil rights action pursuant to 42 U.S.C. § 1983. Before this Court is Defendant Lieutenant Sandy’s (“Sandy”) second request to continue the trial date from December 9, 2008 to “some date after the new year.” (Doc. 126 (Gatling Decl. ¶ 5).) Sandy’s request is made on two grounds: (1) Sandy’s expert witness, Dr. A. Traquina, chief medical officer at California State Prison - Solano, is unavailable to testify during the week of December 9, 2008 because he will be taking his California medical board exams (Gatling Decl. ¶ 3); and (2) Sandy’s counsel, April Gatling, is scheduled to retry another Eastern District case on December 9, 2008 (*id.* ¶ 4). Because neither of these reasons merit continuing the trial date, the Court denies Sandy’s request.

First, Dr. Traquina’s unavailability does not warrant a trial continuance. While both Jones and Sandy anticipate calling Dr. Traquina as an expert witness (*see* Docs. 110, 119), Sandy’s own pretrial statement indicates that she anticipates calling Dr. Traquina “or his

1 designee.” (Doc. 119 (at 7).) Because another expert witness can testify in Dr. Traquina’s place,
2 this argument is unpersuasive.

3 Second, Ms. Gatling’s unavailability does not warrant a continuance. There are several
4 attorneys assigned to this case. These attorneys can either defend the case themselves or
5 substitute other attorneys to handle the matter.

6 The Court is not persuaded to continue the trial date for a second time, particularly given
7 that this case has been pending for over four years. For the above reasons, Defendant’s request
8 for a trial continuance is denied.

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10 DATED: September 30, 2008

11 _____ /s/ Arthur L. Alarcón
12 UNITED STATES CIRCUIT JUDGE
13 Sitting by Designation
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